

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VINCENT DANIEL HOPPER,

Plaintiff,

v.

G. WIGEN WARDEN NORTHWEST
DETENTION CENTER *et. al.*,

Defendants.

Case No. C05-5662FDB

ORDER

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). The plaintiff has been granted leave to proceed *in forma pauperis*. Plaintiff seeks injunctive relief and costs in this action. He challenges legal library access policies for detainees such as himself. (Dkt. # 1).

This action was originally filed October 6th, 2005. (Dkt. # 1). There were deficiencies in plaintiff's motion for *in forma pauperis* status. Those deficiencies have delayed this case. On November 30th, 2005 plaintiff filed a motion for injunctive relief and his first amended complaint. (Dkt. # 3 and 4). The motion for *in form pauperis* status was still pending. On January 3rd, 2006

1 plaintiff filed a second proposed amended complaint. (Dkt. # 10). His motion for *in form pauperis*
2 status was still pending.

3 On January 11th, plaintiff's motion for *in form pauperis* status was granted. (Dkt. # 11).
4 Thus the court now has three proposed complaints and a motion for a temporary restraining order
5 before it. (Dkt. # 12 through 15).

6 A plaintiff may amend the complaint once as a matter of course without leave of court. Fed.
7 R. Civ. P. 15 (a). Thus, the first amended complaint is the controlling complaint in this action. That
8 is the thirty some page document containing a twelve page complaint, two pages of service and
9 signature pages, and multiple pages of exhibits filed November 30th, 2005. (Dkt. # 4 and 14). This
10 complaint names five defendants:

- 11 1. G. Wigen Warden
- 12 2. Michael Melendez
- 13 3. Mr. Cheek. Associate Warden
- 14 4. Mr. Montevise
- 15 5. Mr. McHatton

16 (Dkt. # 4 and 14). If plaintiff wishes the court to consider the second amended complaint plaintiff
17 will have to file a proper motion with the court.

18 Turning to the issue of service. Plaintiff has provided three complete copies of the amended
19 complaint with exhibits. He has also provided three service forms, but all of the forms are filled out
20 for defendant Michael Melendez.

21 At this time the court declines to order service. The clerk of court is instructed to send
22 plaintiff four Marshal service forms. Plaintiff will fill out the form for the four other defendants and
23 provide two more complete copies of the first amended complaint with exhibits. Plaintiff will have
24 until **February 17th, 2006** to provide the documents to the court. If plaintiff fails to provide the
25 documents the court will enter a Report and Recommendation that this action be dismissed for
26 failure to prosecute.

27 The motion for a temporary injunction will not be considered until service has been

1 accomplished. Once service has been accomplished plaintiff may renew his motion.

2 The Clerk is directed to send a copy of this Order, and the four Marshals service forms to
3 plaintiff and to note this matter for the court's February 17th, 2006 docket.

4 DATED this 18th day of January 2006.
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10 Karen L. Strombom
11 United States Magistrate Judge
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